



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/529,345

11/16/2005

Robert J. Chapolini

B659008.1

6658

7590
William J Dundren
734 LaRue Road
Millersville, MD 21108

09/09/2010

EXAMINER

WAGGLE, JR, LARRY E

ART UNIT

PAPER NUMBER

3775

MAIL DATE

DELIVERY MODE

09/09/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,345	Applicant(s) CHAPOLINI ET AL.	
	Examiner Larry E. Waggle, Jr	Art Unit 3775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-8, 10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-8, 10 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

On page 21, lines 27, 28 and 29 the phrases “resilient 110” and “pinching 110” should read “resilient tip 110.”

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4, 7-8, 10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chapolini et al. (WO 01/67970 A1) in view of Horner (US Patent 3,120,845).

Chapolini et al. disclose a cordless medical apparatus (1; i.e. drill) comprising handle sub-component (11), the handle sub-component being configured to receive an unsterilized motor sub-component (70) and one or more batteries; a collet sub-assembly (15) (Figures 1-9 and pages 6-22).

Chapolini et al. disclose a cordless medical apparatus (i.e. drill) suitable for use in orthopedic medical applications and packaged in a sterile enclosure comprising a disposable sterile housing having a sleeve, the sleeve being configured to receive an unsterilized motor assembly; a drive shaft engaged with the motor, and at least one bushing communicating with the drive shaft, wherein the drive shaft is configured as a tool. Chapolini et al. further disclose a method of assembling a device having a non-sterile component and a sterile component comprising providing a device having a sleeve, the sleeve comprising a sterile outer portion and a non-sterile inside portion; providing an enclosure adapted to communicate with the device and adapted to maintain the sterility of the outside portion of the sleeve, the enclosure having a port for communicating with an inside portion of the sleeve; and positioning the non-sterile component in the sleeve by passing the non-sterile component through the port (see claims 1-3, 7, 10-12 and 17).

Chapolini et al. disclose the claimed invention except for one or more of the sub-components, to include the sterile housing, being fluid tight. Horner discloses a surgical drill (10) comprising a housing (11 and 12) that is water tight (column 1, lines 8-42). It would have been obvious to a person having ordinary skill in that art at the time of the invention to construct the invention of Chapolini et al. with one or more of the sub-

Art Unit: 3775

components being fluid tight in view of Horner in order to sterilize the drill and maintain the working order of the interior components without compromising sterility during a surgical procedure.

Response to Arguments

Applicant's arguments with respect to claims 1-4 and 7 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments, filed 24 May 2010, with respect to claims 8, 10 and 12-15 have been fully considered but they are not persuasive. Furthermore, they are moot. The applicant stated that claims 1 and 8 were not included in the rejection of claim 9. Claim 9 was initially rejected under 35 U.S.C. 103(a) as being unpatentable over Chapolini et al. (WO 01/53145 A1) in view of Horner (US Patent 3,120,845), not Chapolini et al. (WO 01/67970 A1) in view of Horner (US Patent 3,120,845). Claim 1 did not require the limitation of claim 9; therefore, it was indeed not included in the rejection. However, claim 9, being dependent upon claim 8, did require all of the limitations of claim 8; therefore, claim 8 was indeed included in the rejection of claim 9.

In regards to the applicant's arguments with respect to the prior art used in the rejection mailed 24 November 2009, the examiner notes that these arguments are addressed by the new grounds of rejection as set forth above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3775

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry E. Waggle, Jr whose telephone number is (571)270-7110. The examiner can normally be reached on Monday through Thursday, 6:30 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Barrett can be reached on (571)272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3775

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. E. W./
Examiner, Art Unit 3775

/Thomas C. Barrett/
Supervisory Patent Examiner, Art
Unit 3775